

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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FREDKIEY HURLEY, individually,

Index: 15-cv-2785 (GBD)(HBP)

Plaintiff,

-against-

TOZZER, LTD. d/b/a NIAGARA,

Defendant.

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**DEFENDANT'S EXPERT  
DISCLOSURE**

TO: ADA ACCESSIBILITY ASSOCIATES  
Attorneys for Plaintiff  
1076 Wolver Hollow Road  
Oyster Bay, New York 11771  
(516) 595-5009  
Attn: Tara Demetriades, Esq.

PLEASE TAKE NOTICE that defendant, TOZZER, LTD. d/b/a NIAGARA (hereinafter referred to as "Defendant"), by its attorneys, ABRAMS, GORELICK, FRIEDMAN & JACOBSON, LLP, makes following expert disclosure pursuant to Rules 26 and 35:

1. Defendant may call Edward E. Shalat, R.A., a registered architect, to testify at trial. Mr. Shalat's qualifications are set forth on his curriculum vitae which is annexed hereto as Exhibit "A" and made a part hereof.
2. Mr. Shalat has not authored nor co-authored any publications.
3. In the past four years, Mr. Shalat has not testified at trial or at a deposition in any case.
4. The documents supplied to Mr. Shalat upon which he bases his opinion with respect to defendant's premises are the following:

- a. Photographs of the subject location; and
- b. The unauthored and undated report attached to the plaintiff's Initial Disclosures.

5. The following additional information is being used by Mr. Shalat in forming an opinion with respect to plaintiff's alleged conditions:

- a. His experience and training in the discipline of architecture;
- b. Discussions with the Defendant;
- c. His prior work for the Defendant; and
- d. The New York City Building Code and the Americans with Disabilities Act (ADA), along with all other applicable codes.

6. Mr. Shalat has formed opinions and conclusions as to the compliance of defendant's premises with applicable codes, and defendant's ability to modify the premises to comply with said codes. Mr. Shalat's opinions will be contained in his report, a copy of which will be supplied shortly.

7. It is expected that Mr. Shalat will testify that an ADA-compliant ramp cannot be installed at the entrance because the required clearances do not exist to install a compliant handicapped ramp due to the location of neighboring properties and cellar doors. It is also expected that Mr. Shalat will testify that changes to the entrance door and stairs are not required by the ADA as the stairs and doorway are not newly designed, altered, nor constructed, but rather have been in existence since 1940. It is likewise expected that Mr. Shalat will testify that a handicapped ramp is readily available at the premises upon request. It is further expected that Mr. Shalat will testify that defendant cannot place a handrail on the exterior steps as it would not be in conformance with New York City Building Code and would encroach upon the property of

New York City, the adjoining property and block required cellar doors.

8. It is expected that Mr. Shalat will testify that changes to the interior bar are not required as it is not newly designed, altered, nor constructed. It is also expected that Mr. Shalat will testify that a handicapped table is readily available at the premises. It is further expected that Mr. Shalat will testify that the restroom, which has been in existence since 1940, is not large enough to accommodate the required clear floor space and minimum clearances, and cannot be enlarged further due to the presence of load bearing walls.

9. It is expected that Mr. Shalat will testify regarding the following opinions and conclusions:

a. The changes to defendant's premises proposed by plaintiff's expert are either not feasible or not required by the terms of the ADA.

10. Mr. Shalat's fee is \$285 per hour.

11. Mr. Shalat has yet to prepare and sign a report. The report will be provided once it is completed.

PLEASE TAKE FURTHER NOTICE that Defendant, TOZZER, LTD. d/b/a NIAGARA, hereby reserves its right to supplement this response upon receipt of further information.

Dated: New York, New York  
October 12, 2015

Respectfully submitted,  
ABRAMS, GORELICK, FRIEDMAN &  
JACOBSON, LLP  
Attorneys for Defendant

By:

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## ***RESUME***

### **EDWARD E. SHALAT, R.A.**

#### **REGISTERED ARCHITECT:**

THE STATE OF NEW YORK  
THE STATE OF NEW JERSEY  
THE COMMONWEALTH OF PENNSYLVANIA

#### **EDUCATION:**

THE UNIVERSITY OF PENNSYLVANIA  
MASTER OF FINE ARTS, 1980

THE UNIVERSITY OF PENNSYLVANIA  
BACHELOR OF FINE ARTS, 1979

THE STATE UNIVERSITY OF NEW YORK  
BACHELOR OF SCIENCE IN ART, 1977

#### **PROFESSIONAL EXPERIENCE:**

BLOCH HESSE AND SHALAT ARCHITECTS  
1980 TO 1991

BLOCH HESSE AND SHALAT ARCHITECTS,  
PARTNER, 1991 TO 1997

SHALAT ARCHITECTS P.C.  
PARTNER, 1997 TO PRESENT

Edward E. Shalat studied sculpture and painting and received both a Bachelor's and Master's Degree in Fine Arts from the University of Pennsylvania. After graduation in 1980, he joined Bloch Hesse and Shalat Architects working under his father, the Architect Herbert Shalat. He received his Architectural licenses in 1989 and became a partner of the firm in 1991. He is a registered Architect in three states, New York, New Jersey and Pennsylvania. He has worked on a wide variety of challenging projects, including motion picture and television broadcasting facilities, theaters, entertainment centers, recording studios, restaurants, bars, offices and residential buildings. Some of his major corporate clients include the Walt Disney Company, ABC, Inc., ESPN, Inc., CBS, Inc., McDonald's Corporation, Wendy's Corporation, Dos Toros Restaurants, LLC, Cosi Restaurants, Panera Bread, Steak N Shake Restaurants, Corner Table Restaurants, Payless Shoes, AMV Unitel Studios and Silvercup Studios. He has worked as a design team leader organizing experts and consultants on extremely complex and important projects.